



PERMIT TO CONDUCT RIGHT-OF-WAY TREATMENT

Permit number: ROW_2023_RR06

Effective May 2, 2023

Office of the Secretary, Anson B. Tebbetts

www.agriculture.vermont.gov

116 State Street • Montpelier, Vermont 05620-2901 • (802) 828-5667 • (802) 828-1410 fax

Permittee: New England Central Railroad 2 Federal Street Saint Albans, Vermont 05478

[Contact Person: Brett Briggs]

Permit conditions:

1. The permittee shall contact the Agency of Agriculture, Food and Markets (the Agency) one business day prior to initiating this permit.
2. Each application crew, including sub-contractors, working under this permit shall coordinate one use inspection with the Agency.
3. This permit authorizes the use of pesticides in the railroad ballast during this calendar year in the towns of Putney, Dummerston, Brattleboro, Vernon, Alburgh, Swanton, St. Albans, Georgia, Jericho, Williston, Milton, Colchester, Essex [Town], Essex Junction [Village], Winooski, Burlington, Richmond, Bolton, Duxbury, Waterbury, Middlesex, Montpelier, Berlin, Northfield, Roxbury, Granville, Braintree, Randolph, Bethel, Royalton, Sharon, Hartford, Hartland, Windsor, Rockingham, Bellows Falls and Westminster. This permit does not allow for treatment to control terrestrial invasive plant species unless required for operator and worker safety, public health needs, or in compliance with specified conditions in appendix of this permit. This permit in no way authorizes the applicant to use pesticides on real estate where it has no lawful right to do so.
4. Ballast maintenance activities, defined as the mechanical plowing, brooming, tamping or regulating of treated stone ballast, will not occur for 30 days or until one inch of rain has fallen following application, unless the application is a glyphosate-application. These same activities are prohibited for five days following a glyphosate-only application.
5. All distances described in this permit are horizontal (lateral) measurements.
6. The spray width shall be no greater than 12 feet from either side of the centerline of the tracks or no greater than the width of the ballast, or as specified below.

Where safe, practical, **and** consistent with other buffers and conditions required by this permit:

- a. The spray width at public and designated private road crossings will extend 24 feet from centerline on either side for 300 feet preceding and 300 feet proceeding the crossing.
- b. The spray width for whistle posts shall be no greater than 12 feet from centerline on the opposite side of the rail from the whistle post. The spray width may extend out to a maximum width of 24 feet on the side of the whistle post. This extended width may begin no farther than 20 feet preceding the whistle post and end no later than 20 feet following the whistle post.
- c. The spray width for mile posts shall be no greater than 24 feet from centerline. Applications of up to this extended width of 24 feet width may begin no farther than 20 feet preceding the mile post and end no later than 20 feet following the mile post.
- d. Applications around signal cases and masts, stored material and railroad yard applications must be in accordance with the product label.
- e. Applications at signal boxes, signal bungalows and radio towers are limited to a 6-foot radius around each structure.

7. At least one certified applicator shall be a member of each application crew. All label recommendations and requirements for protective clothing shall be adhered to for all applicators.
8. Proof of public notification as detailed in the permit application shall be provided to the Agency, upon request, as proof that the notification occurred (e.g., copies of newspaper tear sheets, invoices).
9. Pesticides shall not enter the waters of the State. Buffers to water are as follows, unless the product label prescribes a greater buffer:
 - a. Applications made **parallel** to surface water shall have a visible limit of 10 feet from the edge of the water when spraying glyphosate-only products, or a visible distance of 15 feet when spraying any other permitted products or mixture thereof.
 - i. In areas where the parallel water's edge is less than 10 feet, but farther than two feet from the shoulder, only aquatically labeled glyphosate-only applications may be within the railroad tie (tie end-to-tie end).
 - b. Applications made at a surface water **crossing** shall have a visible limit of 30 feet from the water's edge.
 - c. Aquatically labeled glyphosate products may be applied up to two feet from the edge of water crossings, bridge abutments or culverts containing water, by hy-rail application equipment traveling at two miles per hour.
 - d. Flatbed railroads with ballast deck bridges that are solid and has drainage that prohibits runoff from entering Vermont waterways may be treated with an aquatically labeled glyphosate only product. Documentation of bridges that meet these parameters must be made to the Agency for review prior to treatment.
10. Public and potable (non-public) water sources are to be avoided.
 - a. Applications shall not be made within 200 feet of a public or potable water source, as identified by the Vermont ANR Atlas, through well owner notification to permittee, or identified in the field.
 - i. Buffer can be reduced to within 100 feet of a public non-community groundwater drinking water source.
 - ii. Buffer can be reduced to within 100 feet of potable water sources in bedrock or confined surficial aquifers.
11. A copy of this permit and accompanying digital or electronic maps identifying surface waters and both public and potable water sources shall be provided to the applicator for use during application.
12. Routine operational records as required by the Vermont Rule for the Control of Pesticides shall be submitted by the pesticide applicator to the Agency of Agriculture on a weekly basis.

Records shall be submitted electronically to:

morgan.griffith@vermont.gov
13. The following pesticides may be applied at the rates listed below and in accordance with the label:

Product name	EPA registration number	Rate not to exceed
Patriot	228-391	1.0 oz per acre
Opensight	62719-597	2.5 oz per acre
Razor Xtreme	71368-81	2 pints per acre
Polaris AC Complete	228-570	1 pint per acre

14. Applications between North Avenue and College Street in Burlington shall be made under the following conditions:
- One application shall be made during the calendar year;
 - Only glyphosate containing products shall be applied in this area;
 - The application shall not occur on a weekend or holiday;
 - The application shall be made prior to 6:00 a.m.; and
 - The permittee shall notify the Agency 24 hours prior to this application being made.
15. During the course of this permit if plant control is not satisfactory in terms of rail safety standards, then notify the Agency for an evaluation that may result in an amended permit.
16. In the event the permittee sub-contracts or assigns any of the applications authorized by this permit, the permittee shall continue to remain responsible for the conditions of this permit. This condition does not relieve any sub-contractor or assignee from compliance.
- Contracted entities shall have one member of the railroad present during application, excluding applications that occur in rail yards.
17. All operations shall be conducted in accordance with the representations made by the permittee in its permit application under these permit conditions unless, and until, the permit is amended.
18. The Secretary reserves the right to further limit or restrict the application of pesticides approved under this permit as conditions or circumstances warrant.

This application was published for public comment and forwarded with recommendation to the Secretary.

Effective Date May 2, 2023

Expiration Date December 31, 2023

DocuSigned by:

Anson Tebbetts

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Anson B. Tebbetts, Secretary
Agency of Agriculture, Food & Markets